

### **REMARKS**

This Amendment is fully responsive to the final Office Action dated February 11, 2008, issued in connection with the above-identified application. A request for continued examination (RCE) accompanies this Amendment. Claims 48-52 are pending in the application. With this Amendment, claims 48, 49, 51 and 52 have been amended. No new matter has been introduced by the amendments made to the claims. Favorable reconsideration of the application is respectfully requested.

At the outset, the Applicants thank Examiner Pond for discussing the Office Action and the withdrawal of claims 48-52 from prosecution during the telephone conversation conducted with the Applicants' representative on February 22, 2008. During the telephone conversation, the Examiner indicated that the Applicants had added new claims 48-52 in the previous response, which appeared to be directed to a different invention than originally claimed. Additionally, the Examiner alleged that the Applicants had constructively elected the originally claimed invention for prosecution on the merits by original presentation. However, during the telephone conversation, it was noted that claims 48-52 are substantially similar to the original claims of the application and, therefore, not directed to a different invention.

At the conclusion of the telephone conversation, the Examiner suggested that the best course of action would be to file a request for continuation examination (RCE) along with a response pointing out the similarities between claims 48-52 and the original claims of the present application, and pointing out any features of the claims that would be distinguishable from the cited prior art. Additionally, the Examiner also suggested a follow-up telephone interview (after the RCE and the response are filed) to expedite prosecution of the present application.

In the Office Action, claims 48-52 have been withdrawn from consideration for being directed to an invention that is distinct and independent from the invention as originally claimed. The Office Action also indicated that the Applicants had constructively elected the originally claimed invention for examination on the merits by original presentation. The Applicants respectfully traverse the withdrawal of claims 48-52 from prosecution and request that the claims be examined on the merits for at least the reasons noted below.

Consistent with the Examiner's recommendations during the telephone conversation on February 22, 2008, the Applicants have filed herewith an RCE. Additionally, in the discussion below, the Applicants have pointed out the similarities between claims 48-52 and the original claims, and presented arguments to further distinguish the features of claims 48-52 from the cited prior art.

Independent claim 48 is substantially similar to original claim 1. Similar to claim 48, original claim 1 was directed to a content distribution management system that included a communication terminal device, and a distribution management device. Claim 48 differs from the original claim 1 in that it also incorporates some of the feature of the original dependent claims (e.g., 2, 5, 6, 11 and 12). The following features were also added to claim 48, which were not in the original claims:

- 1) copyright management information that includes a number of rights representing how many times the content is usable under a certain rule, and payment management information that includes payment information indicating one of a payment amount for each of the rights that are purchased and information indicating that the rights are not purchased;
- 2) updating performed by decreasing, by a number of rights which are purchased, the number of the rights in the memory unit regarding the content for which the purchase requesting information is sent, and registering, in the memory unit, payment information indicating the number of the rights which are purchased and the information indicating that the rights are not purchased, when the purchased content which is purchased according to the purchase requesting information, and the purchase requesting information is received from the communication terminal device; and
- 3) updating performed by updating the payment information in the memory unit regarding the content for which the rule registration request is sent, from the information indicating that the rights are not purchased, to the payment amount for each of the rights, when the rule registration request is received from the communication terminal device.

The above new features (i.e., 1, 2 and 3) further describe limitations initially included in both claim 48 and original claim 1.

Claim 49 corresponds substantially to original claim 16 and also includes the additional features noted above in claim 48. Claim 50 corresponds to original claim 1 and also includes the features of original dependent claims 2, 11 and 12. Finally, claims 51 and 52 are method claims having steps that correspond respectively to the features of claims 48 and 49. Additionally claims 51 and 52 also correspond respectively to original method claims 22 and 26. Based on the above discussion, the Applicants maintain that claims 48-52 are substantially similar to the original claims of the application, and are not directed to a different invention. Accordingly, examination of claims 48-52 on the merits is respectfully requested.

In the previous Office Action dated July 17, 2007, the claims of the present application were rejected under 35 USC 103(a) as being unpatentable over Ginter et al. (U.S. Patent No. 5,910,987, hereafter “Ginter”). The Applicants maintain that the new claims 48-52 are neither anticipated nor rendered obvious by Ginter for at least the reasons noted below.

Independent claims 48-52 recite either (or in some cases both) “a search requesting unit” (or step) or “a distribution management device” (or step) with features not disclosed or suggested by Ginter.

For example, independent claim 48 is directed to a content distribution management system that includes a distribution management device comprising the following features:

- 1) a search requesting unit that is operable to send a search condition to the communication exchange device, receive a predetermined search list from the communication exchange device, weight attribute information indicating a characteristic of each of the content which is attached to the received search list, compare the content based on the attribute information, and specify the most weighted content and a communication terminal device which is the distributor of the most weighted content; and
- 2) a distribution management device that includes a payment management processing unit operable to update the copyright management information and the payment management information based on one of the purchase requesting

information and the rule registration request,

wherein the updating is performed by decreasing, by a number of rights which are purchased, the number of the rights in the memory unit regarding the content for which the purchase requesting information is sent, and registering, in the memory unit, payment information indicating the number of the rights which are purchased and the information indicating that the rights are not purchased, when the purchased content which is purchased according to the purchase requesting information, and the purchase requesting information is received from the communication terminal device, and

the updating is performed by updating the payment information in the memory unit regarding the content for which the rule registration request is sent, from the information indicating that the rights are not purchased, to the payment amount for each of the rights, when the rule registration request is received from the communication terminal device.

One or both of the features recited above for independent claim 48 are similarly recited in independent claims 49-52. Specifically, claim 49 is directed to a device that includes all the features of the distribution management device of claim 48. Claim 50 is directed to a device that includes all the features of the search requesting unit of claim 48. Claim 51 is directed to a method that includes steps for performing all the features of the search requesting unit and the distribution management device of claim 48. Finally, claim 52 is directed to a method that includes steps for performing all the features of the distribution management device of claim 48.

The features of claims 48-52 are fully supported by the Applicants' disclosure and are not believed to be disclosed or suggested by Ginter.

Ginter discloses a system and method for secure transaction management and electronic rights protection of content in a communication system. In the Office Action, the Examiner relied on col. 22, lines 10-67 for disclosing or suggesting a searching operation for content that includes the use of a search list and weighted attributes, as in the present invention.

However, Ginter, at col. 22, lines 10-67, describes the use of "information increments" used to tailor the content received by a user. For example, a user can define content he/she

wants to receive by using the information increments. In Ginter, the information increments appear to allow a user to more narrowly define a subset of desired content that is contained within a larger set of content. This way, the user is provided with the most desirable or relevant content for viewing, and does not receive and is not charged for content that he/she is not interested in viewing.

Nothing in col. 22, lines 10-67 of Ginter discloses all the features of the search requesting unit of the present invention. Specifically, in the present invention, a search requesting unit is operable to send a search condition to the communication exchange device, receive a predetermined search list from the communication exchange device, weight attribute information indicating a characteristic of each of the content which is attached to the received search list, compare the content based on the attribute information, and specify the most weighted content and a communication terminal device which is the distributor of the most weighted content. Ginter, however, fails to disclose or suggest at least the “compare” and “specify” features performed by the search requesting unit of the present invention.

Accordingly, Ginter cannot anticipate or render obvious the present invention recited in claims 48, 50 and 51.

Moreover, in the Office Action, the Examiner relied on Ginter at col. 55, line 14-col. 56, line 30 for disclosing or suggesting the content distribution unit of the present invention.

Specifically, Ginter at col. 55, line 14 -col. 56, line 30 discloses a virtual distribution environment that provides for the payment of content separately from the delivery of content. Additionally, Ginter discloses the use of “rules and controls” corresponding to certain content for controlling how content is processed and viewed by a user. For example, the “rules and controls” may be used to determine the following: 1) the type of usage, 2) the base charge, and 3) the payment method. Nothing in Ginter, however, describes the virtual distribution environment as being able to perform the “updating” operation performed by the distribution management device of the present invention.

Specifically, in the present invention, the distribution management device includes a payment management processing unit operable to update the copyright management information and the payment management information based on one of the purchase requesting information

and the rule registration request. This updating by the distribution management device is performed in two ways:

1) by decreasing, by a number of rights which are purchased, the number of the rights in the memory unit regarding the content for which the purchase requesting information is sent, and registering, in the memory unit, payment information indicating the number of the rights which are purchased and the information indicating that the rights are not purchased, when the purchased content which is purchased according to the purchase requesting information, and the purchase requesting information is received from the communication terminal device; and

2) by updating the payment information in the memory unit regarding the content for which the rule registration request is sent, from the information indicating that the rights are not purchased, to the payment amount for each of the rights, when the rule registration request is received from the communication terminal device. None of these features noted above are disclosed or suggested by Ginter. Accordingly, Ginter cannot anticipate or render obvious the present invention recited in claims 48, 49, 51 and 52.

Based on the foregoing, Ginter cannot anticipate the present invention as recited in independent claims 48-52. Additionally, no obvious combination with or modification to Ginter would result in, or otherwise render obvious, the present invention recited in independent claims 48-52. Thus, the Applicants respectfully submit that all the pending claims are patentable over the prior art of record, and in condition for allowance.

In light of the discussion above, the Applicants respectfully request that the Examiner withdraw the previous rejections to the claims and pass the application to issue.

The Examiner is invited to contact the undersigned attorney by telephone to resolve any remaining issues. **The Applicants also request that the Examiner contact the Applicants' undersigned representative to schedule a telephone interview to help expedite prosecution of the present application.**

Respectfully submitted,

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